

State of Arkansas

87th General Assembly

Regular Session, 2009

A Bill

HOUSE BILL 1583

By: Representatives Hyde, Maloch

By: Senators G. Baker, J. Key, Salmon, Trusty

For An Act To Be Entitled

AN ACT TO CLARIFY THAT CONTRIBUTIONS TO A TAX-
DEFERRED TUITION SAVINGS PROGRAM ARE DEDUCTIBLE
FROM ARKANSAS INCOME TAX; AND FOR OTHER PURPOSES.

Subtitle

TO CLARIFY THAT CONTRIBUTIONS TO A TAX-
DEFERRED TUITION SAVINGS PROGRAM ARE
DEDUCTIBLE FROM ARKANSAS INCOME TAX.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 6-84-111 is amended to read as follows:
6-84-111. Funds exempt from tax.

(a) Except as otherwise indicated in this chapter, interest, dividends, contributions, and capital gains from funds invested in the Arkansas Tax-Deferred Tuition Savings Program or a tax-deferred tuition savings program established by another state under 26 U.S.C. § 529 as in effect on January 1, ~~2007~~2009, shall be exempt from Arkansas income taxes.

(b)(1) ~~For tax years beginning on or after January 1, 2005,~~
~~contributions~~ Contributions to a tuition savings account established under this program may be deducted from the taxpayer's adjusted gross income for the purpose of calculating Arkansas income tax under § 26-51-403(b).

(2) The deductible contributions shall not exceed five thousand dollars (\$5,000) per taxpayer in any tax year.

(3) Contributions to this program that have been deducted from the taxpayer's adjusted gross income for prior tax years shall be subject to



recapture if the taxpayer+

~~(A) Makes~~ makes a subsequent nonqualified withdrawal from the account, ~~or,~~

~~(B) Rolls the account over to a tax-deferred tuition savings program established by another state or institution under 26 U.S.C. § 529 as in effect on January 1, 2007.~~

(4) The contribution shall be recaptured by adding the amount previously deducted, not to exceed the amount of the nonqualified withdrawal or rollover, to the taxpayer's adjusted gross income for the tax year in which the nonqualified withdrawal or rollover occurred.

(c)(1) Qualified withdrawals from a tuition savings account established under this program or a tax-deferred tuition savings program established by another state under 26 U.S.C. § 529 as in effect on January 1, ~~2007~~2009, will be exempt from Arkansas income tax with respect to the designated beneficiary's income.

(2)(A) Nonqualified withdrawals from a tuition savings account established under this program or a tax-deferred tuition savings program established by another state under 26 U.S.C. § 529 as in effect on January 1, ~~2007~~2009, will be subject to Arkansas income tax.

(B) The nonqualified withdrawal will be taxable to the party, account owner, or designated beneficiary who actually makes the withdrawal.

(d) Any earnings on the contribution that are included in the refund will be subject to Arkansas income tax if an account owner receives a refund of contributions to a tuition savings account established under this program or a tax-deferred tuition savings program established by another state under 26 U.S.C. § 529 as in effect on January 1, ~~2007~~2009, because of either:

(1) The death or disability of the designated beneficiary; or

(2) A scholarship, allowance, or payment described in 26 U.S.C. § 135(d)(1)(B) or (C) as in effect on January 1, ~~2007~~2009, received by the designated beneficiary.

SECTION 2. Arkansas Code § 26-51-403(b)(17), concerning the calculation of adjusted gross income for Arkansas income tax purposes, is amended to read as follows:

(17) Deductions for contributions to the Arkansas Tax-Deferred

1 Tuition Savings Program not to exceed five thousand dollars (\$5,000) per
2 taxpayer under § 6-84-111(b), or deductions for contributions to a tax-
3 deferred tuition savings program established by another state under 26 U.S.C.
4 § 529 as in effect on January 1, 2009, not to exceed two thousand five
5 hundred dollars (\$2,500) per taxpayer under § 6-84-111(b).

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7 SECTION 3. Effective Date. This act is effective for tax years
8 beginning on or after January 1, 2009.
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